

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
17 OSP 05046

SHEFFIELD KROPP

Petitioner,

v.

NORTH CAROLINA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

Respondent.

**SETTLEMENT AGREEMENT
AND RELEASE OF ALL CLAIMS**

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NC DHHS
MBN2 2017

11/21/2017

This Settlement Agreement, Waiver, and Release of All Claims (the "Agreement") is made and entered into between Sheffield Kropp ("Kropp") and the North Carolina Department of Health and Human Services ("DHHS").

WITNESSETH

WHEREAS, Kropp was employed by DHHS for a period of employment from November 1, 2007 to February 16, 2017, when DHHS separated her. At the time of her separation, Kropp was employed as a Facility Survey Consultant I.

WHEREAS, disputes arose between Kropp and DHHS regarding the circumstances of Kropp's employment, and the termination of that employment.

WHEREAS, Kropp filed the instant case in the N.C. Office of Administrative Hearings and a settlement conference in reference to this case was held on November 2, 2017 before Fred G. Morrison Jr., Senior Administrative Law Judge.

WHEREAS, Kropp and DHHS now desire to settle completely and for all time all existing disputes between or among them regarding Kropp's employment with DHHS, including any and all conduct of the parties occurring prior to the execution of the Agreement.

NOW, THEREFORE, in consideration of the covenants and promises herein contained, and for other valuable consideration, the receipt of which is hereby acknowledged, the following Agreement is entered into by the undersigned parties.

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COMPLETED*

1. **Settlement Payment, Dismissal, and Re-Employment.** For and in consideration of the promises and covenants contained herein, Kropp and DHHS have agreed and do agree as follows:

(a) Kropp expressly agrees that she shall execute the Agreement upon receipt, and that her counsel, Charles E. Monteith, Jr., shall forward the executed Agreement to counsel for DHHS, Milind K. Dongre, Assistant Attorney General, who will obtain the execution by the appropriate agency representative(s). A fully executed Agreement will then be forwarded to Mr. Monteith and, Kropp agrees, within (5) business days of receipt of same, Kropp shall terminate and dismiss, with prejudice, her employment claims that were at issue in case 17 OSP 5046 pending in the N.C. Office of Administrative Hearings. For the convenience of the parties, this Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

(b) Kropp further agrees that at the time she executes the Agreement pursuant to subsection (a) above, she shall provide her above-named counsel with a letter, which she shall sign, retroactively resigning from the position of Facility Survey Consultant I effective February 16, 2017, and that her counsel will forward said letter along with the executed Agreement to the above-named counsel for DHHS.

(c) DHHS agrees that within a reasonable time from its receipt of the fully executed and notarized Agreement from Kropp's counsel, it will deliver to Kropp's counsel a copy of the Agreement, fully executed and notarized by its authorized representative, and make two payments totaling a gross amount of twelve thousand five hundred dollars (\$12,500). One check shall be made to Kropp in the amount of seven thousand five hundred dollars (\$7,500), for which DHHS shall issue an IRS Form 1099, with said payment deliverable to Kropp at her counsel's office. One payment will be made to the law firm of Monteith Law, PLLC, for attorney fees and costs in the amount of five thousand dollars (\$5,000), for which DHHS shall issue an IRS Form 1099.

(d) Kropp further agrees never to apply to be employed in any manner by the Division of Health Service Regulation within the North Carolina Department of Health and Human Services.

(e) Kropp further agrees not to apply to be employed in any manner by the North Carolina Department of Health and Human Services, including any of its constituent entities (whether designated divisions, subdivisions, or otherwise), for a period of five (5) years from the date of her dismissal (which subsequent to full execution of this Agreement will be designated a resignation), February 16, 2017.

(f) DHHS further agrees to change Kropp's termination to a voluntary resignation and to provide Kropp with a neutral reference to employers other than the North

Carolina Department of Health and Human Services or its constituent entities and to release, upon request, only that information concerning her employment which is allowed to be released under Chapter 126 of the North Carolina General Statutes.

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THE OFFICE OF THE ATTORNEY GENERAL

(g) DHHS further agrees to remove from Kropp's personnel file all personnel actions, forms, memos, and correspondence related to Kropp's February 16, 2017 dismissal.

(h) Kropp further agrees that the payments described in subsection (c) constitute the full and complete settlement of any and all monetary and non-monetary claims between Kropp and DHHS, including claims for wages, salary, benefits, commissions, compensatory, general, special and punitive damages, injunctive or equitable relief, and attorney's fees, interest, expenses, and costs actually incurred. Except as otherwise stated in this Agreement, Kropp expressly waives any and all monetary and non-monetary claims between Kropp and DHHS, including claims for wages, salary, back pay, benefits, entitlements, commissions, compensatory, general, special and punitive damages, injunctive or equitable relief, and attorney's fees, interest, expenses, and costs actually incurred.

2. No Admission. Kropp further agrees that this Agreement, and compliance with this Agreement, shall not be construed as an admission on the part of DHHS of any violation of the rights or interests of Kropp or of any other individual or entity. Kropp further agrees that this Agreement, and compliance with this Agreement, shall not be construed as an admission by DHHS of any violation of any order, ruling, law, statute, regulation, contract or covenant, express or implied, on the part of DHHS, including its current and/or former directors, supervisors, employees, agents, or representatives.

3. Disavowal Of Any Further Or Additional Claims. Kropp agrees to withdraw, dismiss, and terminate, with prejudice, any and all pending charges, complaints, claims, grievances or other actions, including but not limited to the aforementioned case 17 OSP 5046 pending in the N.C. Office of Administrative Hearings, which are against or involve DHHS and which in any way relate to Kropp's employment relationship with DHHS, the termination of that employment relationship, the employment practices of DHHS, and/or any other conduct by DHHS occurring prior to the execution of the Agreement.

4. Waiver And Release.

(a) Except as stated herein, based upon the consideration recited above and the mutual releases granted herein, Kropp hereby waives, releases and forever discharges any claims, rights, liabilities or entitlements now existing or arising in the future which are against or involve DHHS and which relate to Kropp's employment relationship with DHHS, the termination of that employment relationship, the employment practices of DHHS, and/or any conduct of the parties occurring prior to the execution of the Agreement, including, but not limited to any contract claim, tort claim, claim for wages, salaries, commissions, bonuses, severance pay or fringe benefits, and any claim based upon any state or federal wage,

employment or common law, or amendments thereto, including, but not limited to: (i) any claim arising under the North Carolina State Personnel Act, N.C. Gen. Stat. § 126-1, et seq.; (ii) any claim arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq.; (iii) any claim arising under the North Carolina Wage and Hour Act, N.C. Gen. Stat. § 95-25.1, et seq.; (iv) any claim arising under the Fair Labor Standards Act, 29 U.S.C. § 201, et seq.; (v) any claim arising under the Americans With Disabilities Act, 42 U.S.C. § 12101, et seq.; (vi) any claim arising under the North Carolina Persons with Disabilities Protection Act, N.C. Gen. Stat. § 168A-1, et seq.; (vii) any claim arising under, or predicated upon any other North Carolina or federal statute; and (viii) any claim arising under, or predicated upon North Carolina common law or federal common law.

(b) Kropp further agrees not to institute or pursue any lawsuit, grievance, charge of discrimination, or proceeding in any forum that is in any way based upon or arising out of any matter involving Kropp and DHHS from the date of her employment through the execution of this Agreement; and Kropp further agrees to dismiss with prejudice and withdraw, in addition to what is described above, any other active lawsuits, charges of discrimination, complaints, or other actions with any state or federal agency based upon the said matters.

5. Obligation For Attorney Fees and Costs To Date. DHHS agrees that it will assume liability, if any exists, for its attorney fees and costs incurred in the defense of this matter. DHHS also agrees to pay Kropp's attorney's fees as set forth in Paragraph 1(c).

6. Construction Of Agreement. Kropp warrants that in agreeing to the terms of the Agreement, she has not relied in any way upon any representations or statements of DHHS regarding the subject matter hereof or the basis or effect of the Agreement other than those representations or statements contained herein. Kropp further agrees that this Agreement shall be construed in accordance with North Carolina law and hereby consents to the jurisdiction of the North Carolina courts over this matter.

7. Entire Agreement. Kropp and DHHS understand and agree that this Agreement expresses a full and complete settlement of any and all claims, the same having been denied by DHHS, and that this Agreement regardless of the adequacy of its terms is intended to avoid any possible litigation, hearings, reviews, investigations, or controversies. Kropp and DHHS further agree that this Agreement contains the entire agreement between Kropp and DHHS with regard to the matters set forth herein and shall be binding upon and inure to the benefit of the executors, administrators, personal representatives, heirs, successors and assigns of each. Kropp and DHHS further agree that in the event that one or more of the provisions of this Agreement shall for any reason be held to be unenforceable, this Agreement shall be revised only to the extent necessary to make such provision(s) legal and enforceable.

IN WITNESS WHEREOF, Kropp and DHHS have executed the Agreement on the day and year noted below.

SIGNATURES EXECUTING THE ENTIRE AGREEMENT CONTAINED HEREIN

Dated: 11/14/2017

NORTH CAROLINA

Wake COUNTY

On this the 14th day of November, 2017, before me personally appeared Sheffield Kropp, to me known to be the person described herein, and who executed the foregoing instrument; and she acknowledged that she voluntarily executed this Agreement.

Amanda S. Swift
Notary Public

My commission Expires: May 7, 2022

AMANDA S. SWIFT
NOTARY PUBLIC
Wake County
North Carolina
My Commission Expires May 7, 2022

Dated: 11/15/2017

NORTH CAROLINA

Wake COUNTY

On this the 15 day of November, 2017, before me personally appeared Mark Payne, to me known to be the person described herein, and who executed the foregoing instrument; and he acknowledged that he voluntarily executed this Agreement.

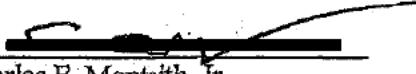
Priscilla D. Barry
Notary Public

My commission Expires: February 28, 2022

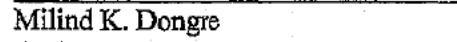


ATTORNEYS' SIGNATURES

Dated: 11-14-17


Charles E. Monteith, Jr.
Attorney for Sheffield Kropf

Dated: _____


Milind K. Dongre
Assistant Attorney General
Attorney for North Carolina Department
of Health and Human Services

*REC'D 11-14-17
KSY 21-207
OFFICE OF ATTORNEY GENERAL*

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